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June 27, 2003

T.R.A. DOCKET ROOM

**Via Hand Delivery**

Honorable Sara Kyle, Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243

**Re: *Petition of Delta Phones, Inc.***  
Docket No. 03-00425

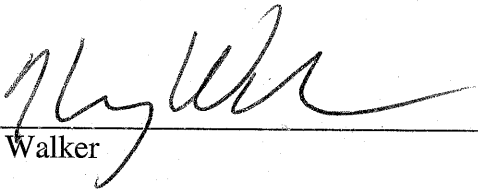
Dear Chairman Kyle:

In connection with the above-captioned Petition filed today by Delta Phones, Inc., I want to bring to your attention the attached order entered this week by the Kentucky Commission involving this same issue.

Thank you for your assistance in this matter.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:   
Henry Walker

HW/pp

Enclosures

cc: Guy Hicks, Esq.

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO A BILLING )	
DISPUTE BETWEEN DELTA )	CASE NO. 2003-00243
PHONES, INC. AND BELL SOUTH )	
TELECOMMUNICATIONS, INC. )	

O R D E R

BellSouth Telecommunications, Inc. ("BellSouth") is a corporation providing telephone service to the public for compensation, and is a utility within the meaning of KRS 278.010(3). Delta Phones, Inc. ("Delta Phones") is also a utility, and a competitive local exchange carrier ("CLEC") serving approximately 1,537 customers in Kentucky.

On June 10, 2003, BellSouth provided the Commission with advance notice of its intent to disconnect Delta Phones for non-payment. According to BellSouth, Delta Phones is delinquent in payment of its bills to BellSouth in the amount of \$2,221,869.53.<sup>1</sup> BellSouth requests authorization to invoke the Emergency Service Continuity Tariff filed with this Commission on June 10, 2003.<sup>2</sup>

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<sup>1</sup> According to BellSouth, this figure represents the amount owed for services throughout the entire BellSouth region; \$279,965.62 is the amount owed for services in Kentucky.

<sup>2</sup> File Number T 64-0774. This tariff would allow BellSouth to provide telephone service to Delta Phones' customers for a minimum of 14 days after Delta Phones ceases to operate. This tariff was approved on May 20, 2003 in Public Service Commission Case No. 2002-00310.

On June 23, 2003, the Commission received a letter from Delta Phones alleging that BellSouth owes Delta Phones approximately \$744,000 and that BellSouth refuses to apply the amount owed to Delta Phones' outstanding account. According to its letter, Delta Phones intends to file a formal complaint against BellSouth containing multiple counts of billing and provisioning abuses.

KRS 278.260(1) grants the Commission original jurisdiction over complaints involving the rates or service of any utility. This statute further provides that, upon receipt of a written complaint that utility service is inadequate or cannot be obtained, the Commission must investigate the matter as it deems necessary or convenient.<sup>3</sup> Also, because Delta Phones characterizes this matter as a dispute about the meaning of the parties' Interconnection Agreement, the Commission has jurisdiction over this matter pursuant to the Telecommunications Act of 1996.

Implementation of BellSouth's Emergency Service Continuity Tariff requires Commission determination that a CLEC has effectively abandoned its customers or that some other emergency exists that would justify the tariff's implementation. In light of the allegations contained in Delta Phones' letter of June 23, 2003, the Commission finds that the current circumstances do not appear to justify implementation of BellSouth's tariff. Instead, pursuant to KRS 278.260(1), the Commission finds it necessary to investigate the billing dispute between BellSouth and Delta Phones.

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<sup>3</sup> KRS 278.260(1).

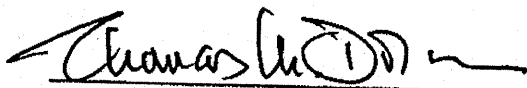
The Commission, having reviewed the filings made by BellSouth and Delta Phones, and being otherwise sufficiently advised, HEREBY ORDERS that:

1. BellSouth shall not disconnect service to Delta Phones' Kentucky customers for a period of 10 days after the date of this Order.
2. Representatives from BellSouth and Delta Phones shall participate in an informal conference with Commission Staff to be held via telephone on June 26, 2003 at 2:00 p.m., Eastern Daylight Time.
3. BellSouth's letter of June 10, 2003 and Delta Phones' letter of June 23, 2003, appended hereto as Appendix A and Appendix B, respectively, are made a part of the record of this proceeding.

Done at Frankfort, Kentucky, this 24<sup>th</sup> day of June, 2003.

By the Commission

ATTEST:

  
Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2003-00243 DATED June 24, 2003

BellSouth Telecommunications, Inc. 502-582-2167  
4th Floor FAX 502-582-0607  
601 W. Chestnut Street  
Louisville, KY 40203

Joan.Coleman@bellsouth.com



Joan A. Coleman  
Vice President  
Regulatory & External Affairs

June 10, 2003

Thomas M. Dorman  
Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
P. O. Box 615  
Frankfort, Kentucky 40602-0615

Dear Mr. Dorman:

Pursuant to the Kentucky PSC's May 20, 2003 order in KY PSC Case No. 2002-0310, BellSouth is providing advance notice to the Kentucky Public Service Commission (PSC) of BellSouth's intent to disconnect Delta Phones, Inc. for non-payment.

BellSouth's records indicate that Delta Phones, Inc. is delinquent in payment of its bills to BellSouth in the amount of \$2,221,869.53. Of this amount, \$279,965.62 is overdue for services provided in Kentucky to Delta Phones, Inc. Attempts to collect past due amounts from Delta Phones, Inc. have been unsuccessful. BellSouth made numerous written notifications to Delta Phones, Inc. informing them of BellSouth's intent to suspend or terminate services consistent with the terms and conditions of Section 1.7 of Attachment 7 of the Interconnection Agreement between Delta Phones, Inc and BellSouth. Attached is BellSouth's last written notice to Delta Phones, Inc. On or about June 24, 2003, BellSouth will begin to discontinue services provided to Delta Phones, Inc. if payments are not received by June 23, 2003. Disconnection of Delta Phones, Inc. services will impact approximately 1,537 of its Kentucky customers.

Under terms of their Interconnection Agreement, Delta Phones, Inc. is solely responsible for notifying its end users of the proposed service disconnection. BellSouth is copying Delta Phones, Inc. to remind them of their obligation to notify their end users of this situation regarding pending disconnection of services.

Should the Commission determine the need to invoke BellSouth's Emergency Service Continuity Tariff, BellSouth will take steps to notify the affected end users and inform them that they may continue to receive telecommunications services through The

Emergency Services Continuity Plan for a minimum of fourteen (14) days and that the end user must transition to a new service provider.

Should you or the staff have any questions concerning this filing or need additional information, Mike Hayden, of my staff, is familiar with this matter and can be reached on (502) 582-8180.

Very truly yours,

Joan A. Coleman

cc: Delta Phones, Inc.

Attachment

May 29, 2003

Delta Phones, Inc.  
Attention: Mr. Richard Talon, President  
245 Illinois Street  
P.O. Box 784  
Delhi, Louisiana 71232

PLEASE REMIT PAYMENT TO:  
BellSouth Network & Carrier Services  
250 Williams Street  
Suite 5010 NW  
Atlanta, Georgia 30303

Dear Mr. Talon:

Attempts to collect past due amounts from Delta Phones have been unsuccessful and to date full payment has not been received. All accounts are currently in default in the amount of \$2,221,869.53 and subject to disconnection.

A breakdown of these accounts is \$353,085.80 in Alabama, \$29,995.51 in Florida, \$890,729.71 in Louisiana, \$279,965.62 in Kentucky, \$38,680.85 in Mississippi, \$403,386.22 in Tennessee, \$63,742.79 in North Carolina, and \$162,283.03 in South Carolina. Pursuant to the Resale Agreement between BellSouth Telecommunications, Inc. and Delta Phones, Inc. consider this letter written notice that BellSouth will proceed with the discontinuance of existing services in Alabama, Florida, Louisiana, Kentucky, Mississippi, Tennessee, North Carolina, and South Carolina on June 23, 2003. Pursuant to the Agreement, it is Delta Phones' responsibility to notify its end users of this impending disconnection.

In order to continue services, Delta Phones must pay, in immediately available funds, the present undisputed balance in the sum of \$2,221,869.53 to BellSouth. In order to prevent disconnection of services in Alabama, Delta Phones must pay \$353,085.80. In order to prevent disconnection of services in Florida, Delta Phones must pay \$29,995.51. In order to prevent disconnection of services in Louisiana, Delta Phones must pay \$890,729.71. In order to prevent disconnection of services in Kentucky, Delta Phones must pay \$279,965.62. In order to prevent disconnection of services in Mississippi, Delta Phones must pay \$38,680.85. In order to prevent disconnection of services in Tennessee, Delta Phones must pay \$403,386.22. In order to prevent disconnection of services in North Carolina, Delta Phones must pay \$63,742.79. In order to prevent disconnection of services in South Carolina, Delta Phones must pay \$162,283.03. Also, payments are expected for any current bills that may become due. If service is interrupted, full non-recurring charges will be applicable to reestablish service.

If you have questions regarding your account, please contact the Billing Operations Manager, Leisa Mangina, at (205) 714-7359.

Sincerely,